

**18-CV-1608RAJ**

AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

NOV 02 2018

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

<b>United States District Court</b>		District	WESTERN DISTRICT OF WASHINGTON
Name (under which you were convicted): ROLANDO JESSE DAZA-CORTEZ		Docket or Case No.: 2:15-cr-00269-RAJ	
Place of Confinement: SHERIDAN CORRECTIONAL FACILITY		Prisoner No.: 45237086	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. ROLANDO JESSE DAZA-CORTEZ	

**MOTION**

1. (a) Name and location of court which entered the judgment of conviction you are challenging

WESTERN DISTRICT COURT OF WASHINGTON AT SEATTLE  
700 Stewart Street, Suite 2310  
Seattle, WA 98101



NOV 02 2018

- (b) Criminal docket or case number (if you know): 2:15-CR-00269-RAJ

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

2. (a) Date of the judgment of conviction (if you know): 11/3/2017

BY \_\_\_\_\_ DEPUTY

- (b) Date of sentencing: \_\_\_\_\_

3. Length of sentence: 126 months

4. Nature of crime (all counts):

Conspiracy to Distribute Controlled Substances  
Money Laundering

5. (a) What was your plea? (Check one)

(1) Not guilty ☐

(2) Guilty ☒

(3) Nolo contendere (no contest) ☐

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

N/A

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐

No ☒

AO 243 (Rev. 09/17)

8. Did you appeal from the judgment of conviction? Yes ☐ No ☒

9. If you did appeal, answer the following:

- (a) Name of court: \_\_\_\_\_
- (b) Docket or case number (if you know): \_\_\_\_\_
- (c) Result: \_\_\_\_\_
- (d) Date of result (if you know): \_\_\_\_\_
- (e) Citation to the case (if you know): \_\_\_\_\_
- (f) Grounds raised: \_\_\_\_\_

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know): \_\_\_\_\_
- (2) Result: \_\_\_\_\_
- (3) Date of result (if you know): \_\_\_\_\_
- (4) Citation to the case (if you know): \_\_\_\_\_
- (5) Grounds raised: \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Western District Court
- (2) Docket or case number (if you know): CR00269RAJ-1
- (3) Date of filing (if you know): \_\_\_\_\_

AO 243 (Rev. 09/17)

(4) Nature of the proceeding: Rule (12) Motion

(5) Grounds raised:

Government Misconduct

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☒ No ☐

(7) Result: Western District Court Denied Rule (12) Motion

(8) Date of result (if you know): 3/10/2017

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: N/A

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

District Court Proceeding had already commenced

AO 243 (Rev. 09/17)

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE: Inadequate Assistance of Counsel**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel lack due diligence. Counsel Failed to investigate thoroughly key facts regarding the Materiality of the Evidence that was exculpatory on my behalf, and failed to address the court about Material Deficiencies regarding a Wholesale of overt insufficiencies regarding the allegations, of which I am legally innocent. My attorney, Emily M. Gause, did not provide me with Discovery nor made it available to me for many months. Every time my attorney came to visit me at the jail she would only spent about fifteen minutes, and then would go on to see some other clients. She had like ten other inmate clients at the same time she had me. I paid my attorney more than \$34,000 Thousand Dollars for my defense. My attorney failed to review the discovery with me, as she never sat down with me and spent time going over many important aspects of the allegations against me on the police reports.

My attorney told me that she talked to the Government and said she had an offer between seven to eight and half years. My attorney went on and submitted motions that I did not fully discussed or consented to with her, and which were denied. I asked my attorney several times about the offer of seven to eight and half years, which I wanted to accept, but she did not move to accept it. My attorney claimed the government changed their position and wanted me to spend more than ten years. I felt she was not focus enough to see that she was neglecting my case. She even admitted on one of the motions submitted to the court that she had not had a chance to go over

See attached page 14

- (b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

My appellate rights were waived via Plea Bargain

- (c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒ No ☐

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: 28 USC 2255 Habeas

Name and location of the court where the motion or petition was filed:

Western District Court of Washington at Seattle

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

AO 243 (Rev. 09/17)

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND TWO: INSUFFICIENT EVIDENCE**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The United States Attorney has persistently pursued my conviction on the sole baiss of "official Suspicions" and conclusory allegations by statements in the Discovery documents forwarded to her, not specifically implicating me in any course of conduct that the Charging document alleges. The Unites States Attorney did not produce Prima Facie evidence of Money Laundering to establish a Bonafide nexus between myself and said allegations to enhance the sentence

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

AO 243 (Rev. 09/17)

(2) If you did not raise this issue in your direct appeal, explain why:

My Appellate rights were waived via Plea Bargain

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(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

AO 243 (Rev. 09/17)

**GROUND THREE: ABUSE OF PROCESS; CRUEL AND HAR**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The United States Attorney has openly badgered me with vindictive threats of a harsh punishment of a 10-12 years Sentence which is not lawful reflection of my admitted conduct which, according to the calculations only imposes a Sentence of 3-4 years, instead of the 10-12 years I was subjected to accept. The Sentence I got is excessive and cruel, compared to others who have a significantly more involvement in similar or heavier crimes.

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐

AO 243 (Rev. 09/17)

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

#### **GROUND FOUR: DUE PROCESS OF LAW**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The United States Attorney has openly conceded in her Pretrial reply Motions that a number of issues of Materiality are not attributed to me based on Discovery in her possession. I possess the same Facts which are not naming myself as a key figure in reflection to the charges on the face of the Government indictment, therefore the Sentence imposed on me was unconstitutional in the clear absence of the Prima Facie Statutory essential elements and thus violates my Due Process of Law rights which prejudice me.

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:



AO 243 (Rev. 09/17)

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed:

\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

\_\_\_\_\_  
(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

\_\_\_\_\_  
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

AO 243 (Rev. 09/17)

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

(b) At the arraignment and plea:

(c) At the trial:

(d) At sentencing:

(e) On appeal:

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

AO 243 (Rev. 09/17)

18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

AO 243 (Rev. 09/17)

Therefore, movant asks that the Court grant the following relief:

I request a reduction of the Sentence imposed on me. I request a Sentence that reflects my actual conduct, which should be between 3 to 5 years.

\_\_\_\_\_  
or any other relief to which movant may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on \_\_\_\_\_

(month, date, year)

Executed (signed) on OCTOBER 29, 2018 (date)

  
\_\_\_\_\_  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

### Basis for my Claim of Ineffective Assistance of Counsel

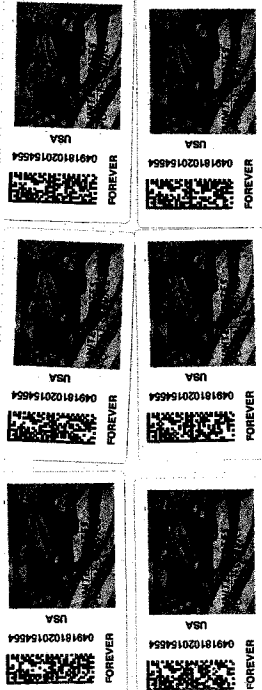
My attorney, Emily M. Gause, did not provide me with Discovery nor made it available to me for many months. Every time my attorney came to visit me at the jail she would only spent about fifteen minutes, and then would go on to see some other clients. She had like ten other inmate clients at the same time she had me. I paid my attorney more than \$34,000 Thousand Dollars for my defense. My attorney failed to review the discovery with me, as she never sat down with me and spent time going over many important aspects of the allegations against me on the police reports.

My attorney told me that she talked to the Government and said she had an offer between seven to eight and half years. My attorney went on and submitted motions that I did not fully discussed or consented to with her, and which were denied. I asked my attorney several times about the offer of seven to eight and half years, which I wanted to accept, but she did not move to accept it. My attorney claimed the government changed their position and wanted me to spend more than ten years. I felt she was not focus enough to see that she was neglecting my case. She even admitted on one of the motions submitted to the court that she had not had a chance to go over with all the discovery materials with me, depriving me of potential defenses, even though she would say that the government lied on some of accusations against me. She kept pressing for me to accept and taking a deal. She even communicated this to my family. Toward the end of the case my attorney hired an expert in accounting forensic, but failed in providing me with a copy of the report. I never saw it.

By the time of the pre-sentencing report, my attorney demanded another four thousand five hundred dollars to review it with me. I completed this with the reporter. I could see my attorney lack any more interest in assisting me. On the date of the sentencing hearing, I was totally stressed out, under the medication and felt like numbed. I could barely understand what they were talking about. I simply said yes to everything and signed feeling I had to under pressure and under the government threats of augmenting my sentencing and the poor advise I received from my attorney.

x 

ROLAND ANZA-CORREX  
REG # 45237-086  
SHERMAN CORRECTIONAL INSTITUTION  
27072 BALUSTON ROAD  
SHERMAN, OR 97376



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